

# UNITED STATES DISTRICT COURT

Middle District of North Carolina

JOSE ANTONIO NIEVES,	)	
	)	
Petitioner,	)	1:05CV459
	)	1:03CR42-1
v.	)	
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

## O-R-D-E-R

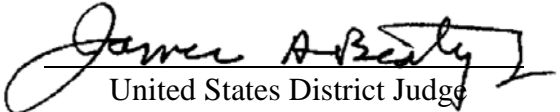
On December 19, 2005, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed and notice was served on the parties in this action and a copy was given to the court.

Within the time limitation set forth in the statute, Petitioner objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court hereby adopts the Magistrate Judge's Recommendation.

**IT IS HEREBY ORDERED** that Petitioner's motion to vacate, set aside or correct sentence (docket no. 1) be **DENIED** and that this action be dismissed with

prejudice. A Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

  
United States District Judge

DATE: February 27, 2006